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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 3046

February 18, 2010

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The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight

March 4, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

April 15, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Ways and Means

May 3, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to health; requiring licensure for birth centers; establishing license fees;
1.3 requiring a report; appropriating money; amending Minnesota Statutes 2008,
1.4 sections 144.651, subdivision 2; 144A.51, subdivision 5; 256B.0625, by adding a
1.5 subdivision; proposing coding for new law in Minnesota Statutes, chapter 144.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [144.615] BIRTH CENTERS.

1.8 Subdivision 1. Definitions. (a) For purposes of this section, the following definitions
1.9 have the meanings given to them.

1.10 (b) "Birth center" means a facility licensed for the primary purpose of performing
1.11 low-risk deliveries that is not a hospital or licensed as part of a hospital and where births are
1.12 planned to occur away from the mother's usual residence following a low-risk pregnancy.

1.13 (c) "CABC" means the Commission for the Accreditation of Birth Centers.

1.14 (d) "Low-risk pregnancy" means a normal, uncomplicated prenatal course as
1.15 determined by documentation of adequate prenatal care and the anticipation of a normal
1.16 uncomplicated labor and birth, as defined by reasonable and generally accepted criteria
1.17 adopted by professional groups for maternal, fetal, and neonatal health care.

1.18 Subd. 2. License required. (a) Beginning January 1, 2011, no birth center shall be
1.19 established, operated, or maintained in the state without first obtaining a license from the
1.20 commissioner of health according to this section.

1.21 (b) A license issued under this section is not transferable or assignable and is subject
1.22 to suspension or revocation at any time for failure to comply with this section.

1.23 (c) A birth center licensed under this section shall not assert, represent, offer,
1.24 provide, or imply that the center is or may render care or services other than the services it
1.25 is permitted to render within the scope of the license or the accreditation issued.

2.1 (d) The license must be conspicuously posted in an area where patients are admitted.

2.2 Subd. 3. **Temporary license.** For new birth centers planning to begin operations
2.3 after January 1, 2011, the commissioner may issue a temporary license to the birth center
2.4 that is valid for a period of six months from the date of issuance. The birth center must
2.5 submit to the commissioner an application and applicable fee for licensure as required
2.6 under subdivision 4. The application must include the information required in subdivision
2.7 4, clauses (1) to (3) and (5) to (7), and documentation that the birth center has submitted
2.8 an application for accreditation to the CABC. Upon receipt of accreditation from the
2.9 CABC, the birth center must submit to the commissioner the information required in
2.10 subdivision 4, clause (4), and the applicable fee under subdivision 8. The commissioner
2.11 shall issue a new license.

2.12 Subd. 4. **Application.** An application for a license to operate a birth center and the
2.13 applicable fee under subdivision 8 must be submitted to the commissioner on a form
2.14 provided by the commissioner and must contain:

2.15 (1) the name of the applicant;

2.16 (2) the site location of the birth center;

2.17 (3) the name of the person in charge of the center;

2.18 (4) documentation that the accreditation described under subdivision 6 has been
2.19 issued, including the effective date and the expiration date of the accreditation, and the
2.20 date of the last site visit by the CABC;

2.21 (5) the number of patients the birth center is capable of serving at a given time;

2.22 (6) the names and license numbers, if applicable, of the health care professionals
2.23 on staff at the birth center; and

2.24 (7) any other information the commissioner deems necessary.

2.25 Subd. 5. **Suspension, revocation, and refusal to renew.** The commissioner may
2.26 refuse to grant or renew, or may suspend or revoke, a license on any of the grounds
2.27 described under section 144.55, subdivision 6, paragraph (a), clause (2), (3), or (4), or
2.28 upon the loss of accreditation by the CABC. The applicant or licensee is entitled to notice
2.29 and a hearing as described under section 144.55, subdivision 7, and a new license may be
2.30 issued after proper inspection of the birth center has been conducted.

2.31 Subd. 6. **Standards for licensure.** (a) To be eligible for licensure under this
2.32 section, a birth center must be accredited by the CABC or must obtain accreditation
2.33 within six months of the date of the application for licensure. If the birth center loses its
2.34 accreditation, the birth center must immediately notify the commissioner.

2.35 (b) The center must have procedures in place specifying criteria by which risk status
2.36 will be established and applied to each woman at admission and during labor.

3.1 (c) The birth center shall provide the commissioner of health, upon request, with any
3.2 material submitted by the birth center to the CABC as part of the accreditation process,
3.3 including the accreditation application, the self-evaluation report, the accreditation
3.4 decision letter from the CABC, and any reports from the CABC following a site visit.

3.5 Subd. 7. **Limitations of services.** (a) The following limitations apply to the services
3.6 performed at a birth center:

3.7 (1) surgical procedures must be limited to those normally accomplished during an
3.8 uncomplicated birth, including episiotomy and repair;

3.9 (2) no abortions may be administered; and

3.10 (3) no general or regional anesthesia may be administered.

3.11 (b) Notwithstanding paragraph (a), local anesthesia may be administered at a birth
3.12 center if the administration of the anesthetic is performed within the scope of practice of a
3.13 health care professional.

3.14 Subd. 8. **Fees.** (a) The biennial license fee for a birth center is \$365.

3.15 (b) The temporary license fee is \$365.

3.16 (c) Fees shall be collected and deposited according to section 144.122.

3.17 Subd. 9. **Renewal.** (a) Except as provided in paragraph (b), a license issued under
3.18 this section expires two years from the date of issue.

3.19 (b) A temporary license issued under subdivision 3 expires six months from the date
3.20 of issue, and may be renewed for one additional six-month period.

3.21 (c) An application for renewal shall be submitted at least 60 days prior to expiration
3.22 of the license on forms prescribed by the commissioner of health.

3.23 Subd. 10. **Records.** All health records maintained on each client by a birth center
3.24 are subject to sections 144.292 to 144.298.

3.25 Subd. 11. **Report.** (a) The commissioner of health, in consultation with the
3.26 commissioner of human services and representatives of the licensed birth centers,
3.27 the American College of Obstetricians and Gynecologists, the American Academy
3.28 of Pediatrics, the Minnesota Hospital Association, and the Minnesota Ambulance
3.29 Association, shall evaluate the quality of care and outcomes for services provided in
3.30 licensed birth centers, including, but not limited to, the utilization of services provided at a
3.31 birth center, the outcomes of care provided to both mothers and newborns, and the numbers
3.32 of transfers to other health care facilities that are required and the reasons for the transfers.
3.33 The commissioner shall work with the birth centers to establish a process to gather and
3.34 analyze the data within protocols that protect the confidentiality of patient identification.

3.35 (b) The commissioner of health shall report the findings of the evaluation to the
3.36 legislature by January 15, 2014.

4.1 Sec. 2. Minnesota Statutes 2008, section 144.651, subdivision 2, is amended to read:

4.2 Subd. 2. **Definitions.** For the purposes of this section, "patient" means a person
4.3 who is admitted to an acute care inpatient facility for a continuous period longer than
4.4 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental
4.5 health of that person. For purposes of subdivisions 4 to 9, 12, 13, 15, 16, and 18 to 20,
4.6 "patient" also means a person who receives health care services at an outpatient surgical
4.7 center or at a birth center licensed under section 144.615. "Patient" also means a minor
4.8 who is admitted to a residential program as defined in section 253C.01. For purposes of
4.9 subdivisions 1, 3 to 16, 18, 20 and 30, "patient" also means any person who is receiving
4.10 mental health treatment on an outpatient basis or in a community support program or other
4.11 community-based program. "Resident" means a person who is admitted to a nonacute care
4.12 facility including extended care facilities, nursing homes, and boarding care homes for
4.13 care required because of prolonged mental or physical illness or disability, recovery from
4.14 injury or disease, or advancing age. For purposes of all subdivisions except subdivisions
4.15 28 and 29, "resident" also means a person who is admitted to a facility licensed as a board
4.16 and lodging facility under Minnesota Rules, parts 4625.0100 to 4625.2355, or a supervised
4.17 living facility under Minnesota Rules, parts 4665.0100 to 4665.9900, and which operates
4.18 a rehabilitation program licensed under Minnesota Rules, parts 9530.4100 to 9530.4450.

4.19 Sec. 3. Minnesota Statutes 2008, section 144A.51, subdivision 5, is amended to read:

4.20 Subd. 5. **Health facility.** "Health facility" means a facility or that part of a facility
4.21 which is required to be licensed pursuant to sections 144.50 to 144.58, 144.615, and a
4.22 facility or that part of a facility which is required to be licensed under any law of this state
4.23 which provides for the licensure of nursing homes.

4.24 Sec. 4. Minnesota Statutes 2008, section 256B.0625, is amended by adding a
4.25 subdivision to read:

4.26 Subd. 54. **Services provided in birth centers.** (a) Medical assistance covers
4.27 services provided in a birth center licensed under section 144.615 by a licensed health
4.28 professional if the service would otherwise be covered if provided in a hospital.

4.29 (b) Facility services provided by a birth center shall be paid at the lower of billed
4.30 charges or 70 percent of the statewide average for a facility payment rate made to a
4.31 hospital for an uncomplicated vaginal birth as determined using the most recent calendar
4.32 year for which complete claims data is available. If a recipient is transported from a birth
4.33 center to a hospital prior to the delivery, the payment for facility services to the birth center
4.34 shall be the lower of billed charges or 15 percent of the average facility payment made to a

5.1 hospital for the services provided for an uncomplicated vaginal delivery as determined
5.2 using the most recent calendar year for which complete claims data is available.

5.3 (c) Professional services provided by traditional midwives licensed under chapter
5.4 147D shall be paid at the lower of billed charges or 100 percent of the rate paid to a
5.5 physician performing the same services. If a recipient is transported from a birth center to
5.6 a hospital prior to the delivery, a licensed traditional midwife who does not perform the
5.7 delivery may not bill for any delivery services. Services are not covered if provided by an
5.8 unlicensed traditional midwife.

5.9 (d) The commissioner shall apply for any necessary waivers from the Centers for
5.10 Medicare and Medicaid Services to allow birth centers and birth center providers to be
5.11 reimbursed.

5.12 **EFFECTIVE DATE.** This section is effective January 1, 2011, or upon federal
5.13 approval, whichever is later.

5.14 Sec. 5. **APPROPRIATION.**

5.15 \$9,000 is appropriated in fiscal year 2011 from the state government special revenue
5.16 fund to the commissioner of health for the purposes of this act.